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OFFICE OF PETITIONS

In re Application of :
M. Nowak :
Application No.09/178,329 :
Filed: October 23, 1998 :
Attorney Docket No. P/73-2 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 2, 2004, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 16, 2003, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on September 17, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$475 extension of time submitted with the petition on February 2, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded in due course.

The application file is being forwarded to Technology Center AU 1773 for processing the Request for Continued Examination pursuant to 37 CFR 1.114 filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
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for Patent Examination Policy